



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
| 09/151,300 | 09/11/98 | KIRCHGEORG | J A7205 |

QM32/0106
SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3202

EXAMINER

SCHAETZLE, K

ART UNIT

PAPER NUMBER

3737

DATE MAILED:

01/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/151,300

Applicant(s)

Kirchgeorg et al.

Examiner

Ken Schaetzle

Group Art Unit

3737



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9 and 13-21 is/are rejected.

☒ Claim(s) 10-12 and 22-26 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3737

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 13 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13, reference to "...said control panel..." lacks antecedent basis. The examiner will assume dependency upon claim 12 in any rejection on the merits. Clarification and correction is required.

In claim 16, repeating that the cover is clear (note base claim 14) is redundant. Also reference to "...said control panel..." lacks antecedence. The examiner will assume dependency upon claim 13 in any rejection on the merits. Once again, clarification and correction are required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Simmons (Pat. No. 5,895,354).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3737

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4-9, 14, 15 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons (Pat. No. 5,895,354).

Regarding claim 2, while Simmons appears to show a single cover 26, whether one uses a single cover, two covers, three covers, etc. is clearly a matter of obvious design dependent upon such design factors as the types of medical equipment to be enclosed, ergonomics and aesthetics. To simply install a second cover, to say, limit the exposure of novice users to potentially harmful conditions such as an inadvertent shock from an external defibrillator while allowing rapid access to more benign forms of medical equipment and supplies, or to more rapidly distinguish between various medical components by allowing for better organization, would have been seen as an obvious matter of design by those of ordinary skill in the art.

Regarding claims 4-9, 17 and 18, the particular components housed within the housing would have clearly been considered an obvious application dependent design parameter. Simmons does not restrict the selection of components, leaving it to the end user to decide which configuration of medical equipment best suits his/her purpose. Regarding the display panel, one can consider indicia 116 or 118 (or any medical diagnostic or treatment device with a display for that matter) to constitute a display. In addition, specifically regarding the use of a defibrillator, Simmons teaches that one may provide at least one treatment device along with the diagnostic equipment. The automatic external defibrillator is a well-known and widely used emergency treatment apparatus. Its incorporation into the system of Simmons would have therefore been considered obvious by those of ordinary skill in the art.

Concerning claims 14 and 15, the use of a clear cover to display the instruments inside would have been considered a matter of obvious design aesthetics by those of ordinary skill in the art.

Art Unit: 3737

Regarding the voice prompting system of claims 19-21, the examiner considers speaker phone 16 to constitute such means as it allows a novice user to be talked through emergency medical procedures via a trained 911 operator.

Allowable Subject Matter

6. Claims 10-12 and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 10, while clearly each listed medical component has its own control panel, there is no teaching in the prior art of record for modifying Simmons to provide a control panel (i.e., a single control panel) for enacting control over all elements.

Regarding claim 22, the prior art of record does not appear to teach the use of a control processor for controlling operations of a defibrillator, voice prompting system and oximetry system in a multi-component medical system of the type set forth.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Schaetzle whose telephone number is (703) 308-2211. The examiner can normally be reached on Mondays through Fridays from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef, can be reached on (703) 308-3256. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Ken Schaetzle

AU 3737

January 3, 2000